

BOARD OF COUNTY COMMISSIONERS

Agenda Item Summary

Meeting Date: February 19, 2003

Division: County Attorney

AGENDA ITEM WORDING

Public hearing of a Declaration of Restrictive Covenant regarding the right-of-way in Hibiscus Park Subdivision, Key Largo.

ITEM BACKGROUND

This is a follow-up action taken abandoning Troup Road, to alleviate traffic concerns of the adjacent subdivision's property owners.

PREVIOUS RELEVANT BOCC ACTION

Request approval to advertise at October 16, 2002 meeting.
At public hearing on November 20, 2002, item was tabled to next Key Largo meeting.

CONTRACT/AGREEMENT CHANGES

STAFF RECOMMENDATIONS

Approval.

TOTAL COST
COST TO COUNTY

BUDGETED Yes No
SOURCE OF FUNDS

APPROVED BY: County Attorney ☒ OMB/Purchasing ☐ Risk Management ☐

DIVISION DIRECTOR APPROVAL:


JOHN R. COLLINS

DOCUMENTATION: Included ☐ To Follow ☐ Not Required ☐

AGENDA ITEM # 73

DECLARATION OF RESTRICTIVE COVENANT

The Board of County Commissioners of Monroe County, Florida, who have an interest in the public roads of Hibiscus Park Subdivision, Key Largo, Monroe County, Florida, by virtue of the plat of said subdivision, found at Monroe County Plat Book 3, page 166, wherein said rights-of-way were dedicated to the perpetual use of the public, makes and enters the Restrictive Covenant below described:

WHEREAS, proposed development in Industrial Acres Subdivision, north of and adjacent to Hibiscus Park Subdivision, both subdivisions being situated on Key Largo, Monroe County, Florida, has resulted in public discourse evidencing concerns by Hibiscus Park property owners and residents that their rural and residential neighborhood might become congested with traffic to the development adjacent to Hibiscus Park Subdivision; and

WHEREAS, Hibiscus Lane, the single developed road in Hibiscus Park Subdivision, could become a main feeder thoroughfare to Industrial Acres Subdivision upon its development, subject to an increase in traffic of 500 trips per day; and

WHEREAS, the Board of County Commissioners of Monroe County has caused a public hearing to be properly noticed and held concerning the establishment of restrictive covenants governing the public rights-of-way in Hibiscus Park Subdivision and barring access by any vehicular traffic other than emergency vehicles from said subdivision to the northerly adjacent subdivision; and

WHEREAS, the Board of County Commissioners of Monroe County has determined that it is in the best interest of the public that fire trucks and ambulances be allowed to access Industrial Acres Subdivision through the public rights-of-way in Hibiscus Park Subdivision; now therefore

BE IT DECLARED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY that:

1. The above recitals are incorporated by reference into this Declaration.
2. The following restrictions affect all of the rights-of-way dedicated to the public, and not heretofore abandoned by official action of the Board of County Commissioners of Monroe County, Florida, in the Plat of Hibiscus Park Subdivision, Monroe County Plat Book 3, page 166, and shall be construed as covenants running with the land, it being the intent of the County Commission that the following restrictions shall bind and restrict the use of the rights-of-way.
3. This Declaration shall be recorded with the Clerk in the Official Records of Monroe County, Florida.
4. All persons dealing with the rights-of-way and entitled by law to enforce and compel compliance with this Declaration shall have a full remedy both in law and in equity to enforce and compel compliance with this Declaration and to benefit and take advantage of this Declaration; provided however, that the violation or attempted violation of any restriction in this Declaration, shall not be deemed to operate or work a reverter or forfeiture.
5. This Declaration in full does not amend or modify any statements or representations of the County, or any requirements of the respective ordinances of the County dealing with the subdividing and platting of land or the design and construction of

improvements, but is intended as additional covenants and agreements for the purposes set forth here.

6. The County does, by this Declaration, specifically estop itself and all its successors and assigns from contending in any manner that the above covenants are not full and adequate covenants running with the land and binding on the land for all times after the making of this declaration until expressly modified or amended, if at all, with the consent of the majority of property owners of Lots in Hibiscus Park Subdivision, Key Largo, Monroe County, Florida.
7. Invalidation of any one of these covenants by judgment or Court Order shall in no case affect any of the other covenants which shall remain in full effect.

SPECIFIC CONDITIONS

1. There shall be installed in the vicinity of the crossover route between Buttonwood Lane and Hibiscus Lane, Hibiscus Park Subdivision, a barrier(s) approved by the Monroe County Commission and Fire Marshall to prevent access from said Subdivision to the adjacent subdivision by any vehicle other than emergency vehicles.
2. The public rights-of-way in Hibiscus Park Subdivision, Key Largo, Monroe County, Florida, shall retain the residential character of a small rural lane providing general access only to the lots in said platted subdivision and any vehicular access to properties adjacent to said subdivision shall be limited to emergency vehicles.

IN WITNESS WHEREOF, the Board of County Commissioners has caused this Declaration of Restrictive Covenant to be executed in its name by its Board of County Commissioners acting by the Mayor or Vice-Mayor of said Board, this _____ day of February, 2003.

(SEAL)

Attest: DANNY L. KOLHAGE, Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Deputy Clerk

By _____
Mayor/Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY 
SUZANNE A. HUTTON

DATE 1/30/03